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MINISTRY OF LAW (Legislative Department)

New Delhi, the 18th October, 1958/Asvina 26, 1880 (*Saka*)

The following Acts of Parliament received the assent of the President on the 17th October, 1958, and are hereby published for general information:—

THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

No. 41 of 1958

[17th October, 1958]

An Act to regulate certain conditions of service of the Judges of the Supreme Court

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Supreme Court Judges (Conditions of Service) Act, 1958. Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "acting Chief Justice" means a Judge appointed under article 126 of the Constitution to perform the duties of the Chief Justice of India;

(b) "actual service" includes—

(i) time spent by a Judge on duty as a Judge, or in the performance of such other functions as he may, at the request of the President, undertake to discharge; and

(ii) vacations;

(c) "Chief Justice" means the Chief Justice of India, but does not include an acting Chief Justice;

- (d) "High Court" means the High Court for a State;
- (e) "Judge" means a Judge of the Supreme Court and includes the Chief Justice and an acting Chief Justice;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "service as a Judge in India" means service rendered either in the Federal Court or in the Supreme Court or in any such Court and in one or more of the High Courts, and "Judge in India" and "service for pension as a Judge in India" shall be construed accordingly;
- (h) "service for pension" includes—
- (i) actual service;
 - (ii) time spent by a Judge of a High Court in attending the sittings of the Supreme Court as an *ad hoc* Judge under article 127 of the Constitution, if he is subsequently appointed as a Judge;
 - (iii) forty-five days or the amount actually taken, whichever is less, of each period of leave on full allowances;
 - (i) "vacation" means such period or periods during a year as may be fixed as vacation by or under the rules of the Supreme Court made with the prior approval of the President.

CHAPTER II

LEAVE

Kinds of leave admissible to a Judge. 3. (1) Subject to the provisions of this Act, leave granted to a Judge may be at his option either—

- (a) leave on full allowances; or
- (b) leave on half allowances; or
- (c) leave partly on full allowances and partly on half allowances.

(2) For the purposes of this Chapter, any period of leave on full allowances shall be reckoned as double that period of leave on half allowances.

Leave account showing the amount of leave due. 4. (1) A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half allowances.

(2) In the leave account of a Judge—

- (a) there shall be credited to him—
 - (i) one-fourth of the time spent by him on actual service; and

(ii) where the Judge, by reason of his having been detained for the performance of duties not connected with the Supreme Court, cannot enjoy any vacation which he would otherwise have been entitled to enjoy had he not been so detained, as compensation for the vacation not enjoyed, a period equal to double the period by which the vacation enjoyed by him in any year falls short of one month; and

(b) there shall be debited to him all leave with allowances taken by him.

(3) This section shall be deemed to have come into force on the 1st day of May, 1958.

5. (1) The aggregate amount of leave which may be granted to a Judge during the whole period of his service as such shall not exceed in terms of leave on half allowances three years together with the aggregate of the periods, if any, credited to his leave account under sub-section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed.

Aggregate amount of leave which may be granted.

(2) The aggregate amount of leave on full allowances which may be granted to a Judge during the whole period of his service as such shall not exceed one-twenty-fourth of the period spent by him on actual service together with one-half of the aggregate periods, if any, credited to his leave account under sub-section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed.

(3) The maximum period of leave which may be granted at one time shall be, in the case of leave on full allowances, five months and in the case of leave with allowances of any kind, sixteen months.

6. Subject to the maximum limit specified in sub-section (1) of section 5, leave on half allowances may be granted to a Judge in excess of the amount at his credit—

Grant of leave not due.

(i) on medical certificate; or

(ii) otherwise than on medical certificate, for a period not exceeding six months, or for two or more periods not exceeding in the aggregate six months, during the whole period of his service as a Judge:

Provided that no such leave shall be granted if the Judge is not expected to return to duty at the end of such leave and earn the leave granted.

7. Special disability leave may be granted to a Judge under such circumstances, on such allowances and for such periods as may be prescribed.

Special disability leave.

Extra-ordinary leave.

8. Extraordinary leave may be granted to a Judge for a period not exceeding six months, or for two or more periods not exceeding in the aggregate six months, during the whole period of his service as a Judge in excess of any leave permissible under the foregoing provisions of this Chapter, but no salary or allowances shall be payable in respect of such leave.

Leave allowances.

9. (1) The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be for the first forty-five days of such leave a rate equal to the monthly rate of the salary and thereafter two thousand two hundred and twenty rupees.

(2) The monthly rate of leave allowances payable to a Judge while on leave on half allowances shall be one thousand one hundred and ten rupees.

Combining leave with vacation.

10. A Judge may be permitted to combine vacation on full salary with leave, if—

(a) where the vacation consists of one continuous period, the leave is taken either at the commencement or at the end of the vacation but not at both;

(b) where the vacation is divided into two periods, the leave is taken for the interval, or part of the interval, between the two periods of that vacation, or for the interval, or part of the interval, between the second period of that vacation and the commencement of the next ensuing vacation:

Provided that no such permission to combine vacation with leave shall be granted, if it becomes necessary to appoint an acting Chief Justice during the period of vacation or if the Judge is not expected to return to duty at the end of such leave.

Consequences of overstaying leave or vacation.

11. (1) If a Judge overstays his leave or any vacation, whether combined with leave or not, he shall receive no salary in respect of the period of his absence in excess of the leave granted to him or beyond the end of the vacation, as the case may be:

Provided that, if such absence is due to circumstances beyond his control, the period thereof may be treated as leave and may be debited to his leave account.

(2) Nothing in this Act shall be construed as requiring a Judge to rejoin on the expiration of the period of leave when that period expires immediately before the commencement of a vacation, nor as authorising any acting Chief Justice to continue to hold the acting appointment during the vacation.

12. The authority competent to grant or refuse leave to a Judge or to revoke or curtail the leave already granted to a Judge shall be the President who shall exercise the power after consultation with the Chief Justice. Authority competent to grant leave.

CHAPTER III

PENSIONS

13. Subject to the provisions of this Act, a pension shall be payable in accordance with the provisions of Part I of the Schedule to a Judge of the Supreme Court on his retirement if, but only if,— Pension payable to Judges.

(a) he has completed not less than seven years of service for pension as a Judge in India; or

(b) he has attained the age of sixty-five years; or

(c) his retirement is medically certified to be necessitated by ill-health.

Explanation.—In this section, “Judge” means a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and includes a person who was in service as a Judge on the 20th May, 1954, and also includes a Judge who being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State has elected to receive the pension payable under Part I of the Schedule.

14. Every Judge—

(a) who is a member of the Indian Civil Service shall, on his retirement, be paid a pension in accordance with the provisions of Part II of the Schedule;

(b) who is not a member of the Indian Civil Service but has held any other pensionable civil post under the Union or a State shall, on his retirement, be paid a pension in accordance with the provisions of Part III of the Schedule:

Special provisions for pension in respect of Judges who are members of service.

Provided that every such Judge shall elect to receive the pension payable to him either under Part I of the Schedule or, as the case may be, Part II or Part III of the Schedule, and the pension payable to him shall be calculated accordingly.

Power of President to add to the services for pension.

15. The President may, for special reasons, direct that any period not exceeding three months shall be added to the service for pension of a Judge, and any such period so added shall count for pension purposes—

(a) in the case of a Judge who has served in the Supreme Court as Chief Justice, as service as Chief Justice; and

(b) in the case of any other Judge, as service as any other Judge.

Extraordinary pension.

16. Extraordinary pensions and gratuities may be granted to a Judge under such circumstances and on such scales as may be prescribed.

Pension payable to a Judge who was in receipt of pension at the time of appointment as such.

17. If, at the time of his appointment to the Supreme Court, a Judge is in receipt of a pension in respect of any previous service either as a Judge of a High Court or in any other pensionable civil post under the Union or a State, the pension payable to him under this Act shall be an additional pension for service in the Supreme Court equal to the difference between his original pension and the pension to which he would have been entitled under this Act, if his service in the Supreme Court had been rendered in continuation of the previous service for which his original pension was granted.

Conversion of sterling pension into rupees.

18. Pensions expressed in sterling only shall, if paid in India, be converted into rupees at such rate of exchange as the Central Government may, from time to time, specify in this behalf.

Commutation of pension.

19. The Civil Pensions (Commutation) Rules for the time being in force shall, with necessary modifications, apply to Judges.

Provident fund.

20. Every Judge shall be entitled to subscribe to the General Provident Fund (Central Services):

Provided that a Judge who is a member of the Indian Civil Service or has held any other pensionable civil post under the Union or a State shall continue to subscribe to the provident fund to which he was subscribing before his appointment as a Judge:

Provided further that a Judge who was appointed before the commencement of this Act may continue to subscribe to the provident fund to which he was subscribing immediately before such commencement.

Authority competent to grant pension.

21. Save as may be otherwise expressly provided in the relevant rules relating to the grant of extraordinary pensions and gratuities, the authority competent to grant pension to a Judge under the provisions of this Act shall be the President.

CHAPTER IV

MISCELLANEOUS

22. A Judge shall receive such reasonable allowance to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as may, from time to time, be prescribed.

Travelling allowance to a Judge.

23. (1) Every Judge shall be entitled without payment of rent to the use of an official residence in accordance with such rules as may, from time to time, be made in this behalf.

Facilities for rent-free houses and other conditions of service.

(2) Every Judge and the members of his family shall be entitled to such facilities for medical treatment and for accommodation in hospitals as may, from time to time, be prescribed.

(3) The conditions of service of a Judge for which no express provision has been made in this Act shall be such as may be determined by rules made under this Act.

(4) This section shall be deemed to have come into force on the 26th day of January, 1950, and any rule made under this section may be made so as to be retrospective to any date not earlier than the commencement of this section.

24. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) leave of absence of a Judge, including special disability leave;

(b) pension payable to a Judge, including extraordinary pensions and gratuities;

(c) travelling allowances to a Judge;

(d) use of official residence by a Judge;

(e) facilities for medical treatment and other conditions of service of a Judge;

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under this section shall, as soon as possible after they are made, be laid for not less than thirty days before each House of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Savings.

25. Nothing contained in this Act shall have effect so as to **give** to a Judge who is serving as such at the commencement of this Act less favourable terms in respect of his privileges and allowances or his rights in respect of leave of absence (including leave allowances) or pension than those to which he would have been entitled, if this Act had not been passed.

THE SCHEDULE

(See sections 13 and 14)

PENSIONS OF JUDGES

PART I

1. The provisions of this Part apply to a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and also apply to a person who was in service as a Judge on the 20th May, 1954, and to a Judge who, being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State, has elected to receive the pension payable under this Part.

2. Subject to the provisions of this Part, the pension payable to a Chief Justice to whom this Part applies and who has completed not less than seven years of service for pension as a Judge in India shall be an amount equal to the sum of the following amounts, that is to say,—

(a) an amount equal to the pension which would have been payable to him in accordance with the scale and provisions in Part I of the First Schedule to the High Court Judges (Conditions of Service) Act, 1954, if his service as a Judge had^{28 of 1954.} been rendered as the Chief Justice of a High Court;

(b) an additional amount of Rs. 470 per annum for each completed year of service as the Chief Justice of the Supreme Court until he has become entitled to a pension of Rs. 20,000 per annum, and thereafter an additional amount of Rs. 1,200 for each completed year of such service:

Provided that the aggregate amount of his pension shall in no case exceed Rs. 26,000 per annum.

3 The pension payable to any other Judge to whom this Part applies and who has completed not less than seven years of service

28 of 1954.

for pension as a Judge in India shall be an amount equal to the pension which would have been payable to him in accordance with the scale and provisions in Part I of the First Schedule to the High Court Judges (Conditions of Service) Act, 1954, if his service as a Judge had been rendered as the Chief Justice of a High Court.

4. If a Judge of the Supreme Court who has served as an acting Chief Justice thereof is subsequently appointed Chief Justice, his service as acting Chief Justice shall, for the purposes of paragraph 2 of this Part, be treated as service as Chief Justice.

5. Where a Judge to whom this Part applies retires without being eligible for a pension under any other provision of this Part, then, notwithstanding anything contained in the foregoing provisions, a pension of Rs. 7,500 per annum shall be payable to such a Judge:

Provided that nothing in this paragraph shall apply to a Judge who at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Union or a State.

PART II

1. The provisions of this Part apply to a Judge who is a member of the Indian Civil Service and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge in India being treated as service therein, and

(b) an additional pension of Rs. 1,400 per annum for each completed year of service for pension in the Supreme Court :

Provided that the aggregate amount of his pension shall in no case exceed Rs. 20,000 per annum

PART III

1. The provisions of this Part apply to a Judge who has held any pensionable civil post under the Union or a State (but is not a member of the Indian Civil Service) and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge in India being treated as service therein for the purpose of calculating that pension; and

(b) a special additional pension of Rs. 500 per annum in respect of each completed year of service for pension as a Judge in India but in no case such additional pension together with the additional or special pension, if any, to which he is entitled under the ordinary rules of his service shall exceed Rs. 2,500 per annum.

THE INTERNATIONAL FINANCE CORPORATION (STATUS, IMMUNITIES AND PRIVILEGES) ACT, 1958

No. 42 OF 1958

[17th October, 1958]

An Act to implement the international agreement for the establishment and operation of the International Finance Corporation in so far as it relates to the status, immunities and privileges of that Corporation, and for matters connected therewith.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

Short title
and extent.

1. (1) This Act may be called the International Finance Corporation (Status, Immunities and Privileges) Act, 1958.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Agreement" means the Agreement for the establishment and operation of the international body known as the International Finance Corporation;

(b) "Corporation" means the International Finance Corporation established under the Agreement.

Conferment
of status and
certain im-
munities and
privileges on
the Corpora-
tion and
conferment
of certain
immunities
and privi-
leges on its
officers and
employees.

3. (1) Notwithstanding anything to the contrary contained in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law in India:

Provided that nothing in Section 9 of Article VI of the Agreement shall be construed as—

(a) entitling the Corporation to import into India goods free of any duty of customs without any restriction on their subsequent sale therein; or

(b) conferring on the Corporation any exemption from duties or taxes which form part of the price of goods sold; or

(c) conferring on the Corporation any exemption from duties or taxes which are in fact no more than charges for services rendered.

(2) The Central Government may, from time to time, by notification in the Official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the Agreement set out therein:

Provided that any notification issued under this sub-section shall be laid for not less than thirty days before each House of Parliament as soon as may be after it is issued and shall be subject to such modifications as Parliament may make during the session in which it is so laid or the session immediately following.

4. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) All rules made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

THE SCHEDULE

[See section 3]

PROVISIONS OF THE AGREEMENT WHICH SHALL HAVE FORCE OF LAW

ARTICLE III

SECTION 1. *Financing Operations*

The Corporation may make investments of its funds in productive private enterprises in the territories of its members. The existence of a government or other public interest in such an enterprise shall not necessarily preclude the Corporation from making an investment therein.

* * * * *

SECTION 5. *Applicability of Certain Foreign Exchange Restrictions*

Funds received by or payable to the Corporation in respect of an investment of the Corporation made in any member's territory pursuant to Section 1 of this Article shall not be free, solely by reason of any provision of this Agreement, from generally applicable foreign exchange restrictions, regulations and controls in force in the territories of that member.

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ARTICLE VI

STATUS, IMMUNITIES AND PRIVILEGES

SECTION 1. *Purposes of Article*

To enable the Corporation to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Corporation in the territories of each member.

SECTION 2. *Status of the Corporation*

The Corporation shall possess full juridical personality and, in particular, the capacity:

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

SECTION 3. *Position of the Corporation with regard to Judicial Process*

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or driving claims from members. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

SECTION 4. *Immunity of Assets from Seizure*

Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5. *Immunity of Archives*

The archives of the Corporation shall be inviolable.

SECTION 6. *Freedom of Assets from Restrictions*

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, Section 5, and the other provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

SECTION 7. *Privilege for Communications*

The official communications of the Corporation shall be accorded by each member the same treatment that it accords to the official communications of other members.

SECTION 8. *Immunities and Privileges of Officers and Employees*

All Governors, Directors, Alternates, officers and employees of the Corporation:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

SECTION 9. *Immunities from Taxation*

(a) The Corporation, its assets, property, income and its operations and transactions authorised by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is issued by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

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SECTION 11. *Waiver*

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such conditions as it may determine.

G. R. RAJAGOPAUL, Secy.